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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARTHA ALICIA VENTURA,

Petitioner,

v.

MICHAEL B. MUKASEY, ** Attorney
General,

Respondent.

Nos. 05-77242

06-73869

Agency No. A75-750-248

MEMORANDUM *

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted November 13, 2007 ***

Before: TROTT, W. FLETCHER, and CALLAHAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** Michael B. Mukasey is substituted for his predecessor, Alberto R. Gonzales, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

*** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Martha Alicia Ventura, a native and citizen of Mexico, petitions for review of the Board of Immigration Appeals' ("BIA") orders denying her motion to reopen, and dismissing her appeal from the Immigration Judge's ("IJ") order denying her application for cancellation of removal. To the extent we have jurisdiction, it is pursuant to 8 U.S.C. § 1252. We review the denial of a motion to reopen for abuse of discretion, and due process violations de novo. *Lin v. Ashcroft*, 377 F.3d 1014, 1023 (9th Cir. 2004). We deny the petitions for review.

Contrary to Ventura's contention, the BIA did not apply an inappropriately stringent prejudice standard with respect to either her appeal or motion to reopen. *See Iturribarria v. INS*, 321 F.3d 889, 899-900 (9th Cir. 2003) (to prevail on an ineffective assistance of counsel claim, a petitioner must demonstrate that counsel's conduct was so inadequate that it may have affected the outcome of the proceedings). We agree with the BIA's conclusion that the performance by Ventura's former attorneys did not result in prejudice to Ventura, and thus her claim of ineffective assistance of counsel fails.

To the extent Ventura contends the BIA failed to consider some or all of the evidence she submitted with the motion to reopen, she has not overcome the

presumption that the BIA did review the record. *See Fernandez v. Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006).

PETITIONS FOR REVIEW DENIED.